

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jennine Giordano	Team: Team # 3	CCRB Case #: 200610536	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 08/04/2006 5:40 AM	Location of Incident: Manee Avenue and Amboy Road	Precinct: 123	18 Mo. SOL 2/4/2008	EO SOL 2/4/2008	
Date/Time CV Reported Wed, 08/09/2006 6:35 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 08/09/2006 6:35 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Vitoliy Zelikov	27266	936353	123 PCT
2. POM Aiman Ahmed	13263	936104	123 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT John Schimmel	04526	895979	123 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Vitoliy Zelikov	Abuse: PO Vitoliy Zelikov stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.POM Aiman Ahmed	Abuse: PO Aiman Ahmed stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
C.POM Vitoliy Zelikov	Abuse: PO Vitoliy Zelikov searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
D.POM Aiman Ahmed	Abuse: PO Aiman Ahmed searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	

## Synopsis

On August 9, 2006, § 87(2)(b) filed this complaint with the Civilian Complaint Review Board's call processing system regarding an incident that occurred five days earlier involving her daughter, § 87(2)(b) who was not present for the incident, reported that her daughter was a passenger in an unidentified vehicle, which was ultimately stopped and surrounded by police vehicles. On August 7, 2006, § 87(2)(b) contacted 311 and reported that the officers at the 120<sup>th</sup> Precinct refused to give her daughter medication for her kidneys (encl. 5). According to § 87(2)(b) on August 4, 2006, at approximately 1:30 a.m., a male by the name of § 87(2)(b) who was driving a black SUV, picked § 87(2)(b) up from the corner of Arthur Kill Road in Staten Island. Two males by the name of § 87(2)(b) and § 87(2)(b) were seated in the back seat of the vehicle. § 87(2)(b) entered the vehicle and sat in the front passenger seat. § 87(2)(b) indicated that he could not turn the headlights off and was "fiddling" with the buttons. Shortly after, a police vehicle stopped them (Allegation A). Two officers, identified from the investigation as PO Vitoliy Zelikov and PO Aiman Ahmed, of the 123<sup>rd</sup> Precinct, allegedly approached the vehicle and indicated that the headlights were turned off. The occupants of the vehicle were instructed to exit. Initially, § 87(2)(b) was arrested for § 87(2)(b). § 87(2)(b) and § 87(2)(b) were told to remain in the area while a further investigation was conducted. During that time, PO Zelikov and PO Ahmed allegedly searched the vehicle (Allegation B). Additional patrol cars arrived at the scene and arrested § 87(2)(b) and § 87(2)(b). At the 123<sup>rd</sup> Precinct, § 87(2)(b) was informed that she was the passenger of a stolen vehicle. All four individuals were charged with § 87(2)(b).

§ 87(2)(g)

## Summary of Complaint

Although § 87(2)(b) was not present for the incident that occurred on Manee Avenue and Amboy Road on August 4, 2006, she arrived at the 123<sup>rd</sup> Precinct in an attempt to provide her daughter with kidney medication, which she was required to take on a daily basis. As a result, § 87(2)(b) provided a CCRB statement on September 7, 2006. During her statement, § 87(2)(b) indicated that she spoke with PO Debra Spennato in regards to the medication for § 87(2)(b). PO Spennato explained that she could not give the medication to § 87(2)(b) but informed § 87(2)(b) that if anything were to happen to her daughter she would be transported to the hospital. § 87(2)(b) indicated that her daughter never requested medical attention.

§ 87(2)(b)

§ 87(2)(b) is a § 87(2)(b)-old white female who is 5 feet 1 inch tall, 148 pounds with brown hair and brown eyes. At the time of the incident and her CCRB statement, § 87(2)(b) was a § 87(2)(b)-old § 87(2)(b). § 87(2)(b) was interviewed at the CCRB on September 7, 2006 (encl. 4-4d). § 87(2)(a)

On August 4, 2006 at approximately 1:00 a.m., § 87(2)(b) was walking on Arthur Kill Road in Staten Island when she received a phone call on her cell phone from an individual, who she knows from a mutual friend as § 87(2)(b) offered a ride home to § 87(2)(b) and she agreed. Approximately twenty minutes later, § 87(2)(b) observed § 87(2)(b) approach in a black SUV. § 87(2)(b) did not recognize the black SUV because § 87(2)(b) usually drives a small green vehicle. § 87(2)(b) assumed that § 87(2)(b) had borrowed the vehicle from one of his friends. When § 87(2)(b) stopped the vehicle, § 87(2)(b) observed her friend, § 87(2)(b) sitting in the front passenger seat and another male in the back seat, who she did not recognize, but was ultimately identified from the investigation as § 87(2)(b). § 87(2)(b) moved to the back seat to allow § 87(2)(b) to sit in the front passenger seat. As § 87(2)(b) was giving § 87(2)(b) directions on how to drive to her house, § 87(2)(b) "fiddled" with the headlights and

told § 87(2)(b) that he could not turn them off. § 87(2)(b) did not know where § 87(2)(b) and § 87(2)(b) were prior to picking her up. However, eventually § 87(2)(b) informed § 87(2)(b) that he borrowed the vehicle from his friend, "§ 87(2)(b)". Shortly after, § 87(2)(b) noticed a marked police vehicle, with its lights flashing, driving behind them. § 87(2)(b) stopped the vehicle. PO # 1 and PO # 2, who were identified from the investigation as PO Zelikov and PO Ahmed, approached the driver side and passenger side of the vehicle, respectively. PO Zelikov and PO Ahmed indicated that the headlights were off. After PO Zelikov inquired whether any of the occupants had been under the influence of drugs or alcohol he instructed § 87(2)(b) to exit the vehicle. PO Ahmed instructed § 87(2)(b) and § 87(2)(b) to exit the vehicle. § 87(2)(b) could not provide a license or valid paperwork pertaining to the vehicle. PO Zelikov handcuffed § 87(2)(b) and then frisked and searched him. PO Zelikov and PO Ahmed informed § 87(2)(b) and § 87(2)(b) that they had to remain in the area and requested their identification. PO Zelikov and PO Ahmed alerted the individuals that they would have to search the vehicle to check for drugs and weapons, which was standard procedure. PO Ahmed and PO Zelikov entered and searched the vehicle. § 87(2)(b) observed the officers remove a briefcase, which was underneath the dashboard on the passenger side. PO Zelikov and PO Ahmed placed the briefcase on top of the hood of the vehicle, checked it and placed it back into the vehicle. PO Zelikov and PO Ahmed also searched the trunk of the vehicle. Ten additional officers, dressed in uniform and plainclothes, arrived at the scene. A female officer frisked, searched and handcuffed § 87(2)(b) and she was transported to the 123<sup>rd</sup> Precinct. At the precinct, an officer informed § 87(2)(b) that the vehicle she had been driving in was stolen. § 87(2)(b) explained to an officer that she was currently on medication, which she had to take once daily. However, § 87(2)(b) never specifically requested medical attention. § 87(2)(b)'s mother, § 87(2)(b) arrived at the precinct to try to give § 87(2)(b) her medicine. However, the officers explained to § 87(2)(b) that they could not give § 87(2)(b) the medicine. After § 87(2)(b) was fingerprinted she was transported to the 120<sup>th</sup> Precinct.

### **Results of Investigation**

#### **Attempts to Contact Additional Victims**

During her CCRB statement, § 87(2)(b) provided a phone number for § 87(2)(b). However, she did not have any contact information for § 87(2)(b) or § 87(2)(b). A search of CTS revealed that § 87(2)(b) and § 87(2)(b) both filed previous CCRB complaints, which provided further contact information for them. The undersigned investigator contacted the New York City inmate locator line on September 14, 2006 and confirmed that § 87(2)(b) and § 87(2)(b) were not incarcerated. § 87(2)(b)'s arrest report and OCA paperwork provided an address as well as phone number. On October 24, 2006 and November 17, 2006 please call letters were mailed to § 87(2)(b) and § 87(2)(b). On October 24, 2006, the undersigned investigator contacted § 87(2)(b)'s phone number and spoke with his father, § 87(2)(b). § 87(2)(b) indicated that his son left home three months earlier and he had not heard from him since. Between October 24, 2006 and December 14, 2006, the undersigned investigator made five attempts to contact § 87(2)(b) at his home phone number, however, each time the phone rang repeatedly without an option to leave a message. On November 30, 2006, § 87(2)(b) contacted the CCRB and scheduled an appointment for the same day. § 87(2)(b) also indicated that § 87(2)(b) was deceased. On November 30, 2006, § 87(2)(b) did not appear for his appointment. A missed appointment letter was mailed to his residence on the same day. Between December 4, 2006 and December 18, 2006 several attempts were made to contact § 87(2)(b) however, his phone number had been disconnected (encl. 12-12n).

#### **Identification of Officers Interviewed**

PO Zelikov's name appears on the complaint reports and arrest reports and PO Ahmed is listed on the August 4, 2006 tour 1 roll call as PO Zelikov's partner.

#### **Officer Statements**

*PO Vitoliy Zelikov*

PO Zelikov prepared the complaint report, arrest reports, criminal court complaint, report of refusal to submit to chemical test and intoxicated driver examination report. The narrative in the complaint and arrest report indicates that PO Zelikov observed four individuals in a black Chevrolet Suburban, license plate # § 87(2)(b) traveling eastbound on Amboy Road without lights. Upon stopping the vehicle, PO Zelikov observed that the operator, § 87(2)(b) had watery, bloodshot eyes, slurred speech in addition to smelling alcohol on his breath. Further investigation revealed that the vehicle was stolen. The criminal court complaint report confirms that the four individuals did not have permission or authority to ride in or use the vehicle and noted that § 87(2)(b) and § 87(2)(b) were in possession of property that was reported stolen from four different individuals. The result of § 87(2)(b)'s Breathalyzer test was .000. However, he refused to submit to a chemical test and stated "I refuse to do it because you might find something from before." The taped video of the coordination test, in which PO Zelikov was present, showed no indication that § 87(2)(b) was intoxicated (encl. 6-6ff).

#### *CCRB Statement*

PO Zelikov is a § 87(2)(b)-old white male who is 6 feet tall, 180 pounds with brown hair and green eyes. He has 2-years tenure with the NYPD. PO Zelikov was interviewed at the CCRB on May 2, 2007 (encl. 6kk-6mm). PO Zelikov was scheduled to work from 11:15 p.m. on August 3, 2006 until 7:50 a.m. on August 4, 2006 with PO Ahmed. PO Zelikov's actual tour ended at 8:00 p.m. on August 4, 2006. PO Zelikov and PO Ahmed were assigned to Sector A. Both were dressed in uniform and assigned to marked patrol car # 1453. PO Zelikov was the operator. PO Zelikov had the following memo book entry: At 4:11 a.m., PO Zelikov stopped a car on Amboy Road and Manee Avenue. At 4:23 a.m., Sgt. Schimmel was requested to the scene. At 5:50 a.m., § 87(2)(b) and § 87(2)(b) were arrested for § 87(2)(b). § 87(2)(b) was transported to the 120<sup>th</sup> Precinct for IDTU testing and the others were transported to the 123<sup>rd</sup> Precinct.

On August 4, 2006 at approximately 4:15 a.m., PO Zelikov and PO Ahmed were traveling eastbound on Amboy Road in Staten Island when they observed a black Chevrolet Suburban with its lights off, driving noticeably slow. PO Zelikov and PO Ahmed made a mutual decision to pull the vehicle over. PO Zelikov turned on the lights of the patrol car and the Chevrolet Suburban pulled over right away. PO Zelikov approached the driver side of the vehicle and PO Ahmed approached the passenger side of the vehicle. PO Zelikov observed a total of four passengers seated in the vehicle. The operator was a male, the front passenger was a female and the back passengers were both males. PO Zelikov spoke to the driver, who was subsequently identified as § 87(2)(b) and asked to see his license and registration. § 87(2)(b) indicated that he did not have the paperwork for the vehicle with him. When PO Zelikov asked who the owner of the vehicle was, § 87(2)(b) provided the first name of an individual that he alleged was his friend. However, § 87(2)(b) could not provide a last name or address for his friend. During the conversation with § 87(2)(b) PO Zelikov observed that his speech was slurred and he smelled of alcohol. § 87(2)(b) admitted to PO Zelikov that he had been drinking. PO Zelikov asked the passengers where they were going and they all provided different destinations, causing PO Zelikov to become suspicious. PO Zelikov requested § 87(2)(b) to exit the vehicle and placed him under arrest for DWI. After § 87(2)(b) was placed under arrest and escorted to a patrol car by PO Zelikov, the remaining passengers were asked to exit the vehicle. When the front passenger, subsequently identified as § 87(2)(b) stepped out of the vehicle, PO Zelikov observed the paperwork for the vehicle where she had been seated. PO Zelikov retrieved the paperwork from the vehicle. The name and address on the paperwork did not match with the information § 87(2)(b) had provided to PO Zelikov. PO Zelikov and PO Ahmed ran a license check on the vehicle but it had not yet been reported stolen. PO Zelikov requested an unidentified sector to go to the address listed on the paperwork to verify the status of the vehicle. The owner of the vehicle arrived at the scene, with the unidentified sector, and verified that she did not recognize § 87(2)(b) or § 87(2)(b). After determining the vehicle to be stolen, the three occupants of the vehicle were placed under arrest and frisked as well as searched. After the arrests, PO Zelikov conducted a search on the vehicle in the presence of Sgt. Schimmel. PO Zelikov searched "the whole vehicle," including the rear of the truck and the glove compartments. PO Zelikov indicated that the search was done as standard procedure because the vehicle was in police custody as a result of the arrests. PO Zelikov indicated that even if a vehicle is stolen it does not change the fact that the vehicle has to be searched as part of an arrest procedure.

*PO Aimen Ahmed*

PO Ahmed is a § 87(2)(b) -old white male who is 6 feet 3 inches tall, 250 pounds with brown hair and brown eyes. He has 2-years tenure with the NYPD. PO Ahmed was interviewed at the CCRB on February 8, 2007 (encl. 7-7e). PO Ahmed worked the same tour and assignment as PO Zelikov. PO Ahmed also had the same memo book entry as PO Zelikov. § 87(2)(g)

PO Ahmed corroborated PO Zelikov's statement that the black Chevrolet Suburban was traveling with no headlights. However, PO Ahmed indicated that the vehicle was swerving across the road and that vehicle stop was based entirely on the fact that it was driving erratically. Once the vehicle was stopped, § 87(2)(b) was in a "stupor," was incoherent, had bloodshot eyes, emitted a strong odor of alcohol and could barely stand up straight. § 87(2)(b) informed the officers that the vehicle belongs to a male named "§ 87(2)(b)". However, § 87(2)(b) could not provide a last name, exact address, birth date or age for "§ 87(2)(b)". PO Zelikov placed § 87(2)(b) under arrest for being visibly intoxicated. PO Ahmed and PO Zelikov asked the three other passengers in the vehicle if they knew to whom the vehicle belonged but they did not know. The officers asked each passenger where they were headed and they all responded with different destinations. PO Ahmed believed that since their stories did not match they were all lying or hiding something. PO Ahmed indicated that he retrieved the paperwork from the vehicle as opposed to PO Zelikov. Since PO Ahmed and PO Zelikov did not know to whom the vehicle belonged to, they requested that § 87(2)(b) and § 87(2)(b) stand on the sidewalk in the vicinity of the vehicle. PO Zelikov searched the vehicle. PO Ahmed provided the same explanation as PO Zelikov in regards to why the vehicle was searched. Once it was confirmed that the vehicle was indeed stolen, the remaining three individuals were arrested and the proper arrest procedure was followed.

### **Officers Not Interviewed**

Although Sgt. Schimmel is listed on the complaint report as the supervisor who was present on the scene, the investigation determined that his testimony would not effect the disposition of the allegations, therefore, he along with any other sectors that arrived at the scene, were not interviewed.

### **Police Department Documents**

*Sprint # § 87(2)(b) (encl. 8-8b)*

The SPRINT report indicates that at 4:25 a.m., PO Zelikov and PO Ahmed requested the presence of a sergeant at the corner of Manee Avenue and Amboy Road in Staten Island. As of 5:51 a.m. four individuals were arrested.

*Complaint Reports (encl. 9-9e)*

Separate complaint reports were filed at the 123<sup>rd</sup> Precinct in regards to property that was removed from three different vehicles on August 3, 2006 and August 4, 2006. § 87(2)(b) and § 87(2)(b) were found to be in § 87(2)(b).

*Command Logs, Property Vouchers, Prisoner Holding Pen Rosters, Arrest Photographs and Roll Call (encl. 10-10m)*

The August 4, 2006 command log and holding pen roster for the 123<sup>rd</sup> Precinct notes that § 87(2)(b) and § 87(2)(b) arrived at the precinct at 5:25 a.m. The August 4, 2006 command log for the 120<sup>th</sup> Precinct notes that § 87(2)(b) arrived at the precinct at 5:00 a.m. and was visibly intoxicated. Various electronic equipment including a mini Ipod, camera, cell phone and satellite radio was recovered from the individuals during their arrest. The arrest photographs confirm that the individuals appeared to be

in normal condition. The tour 1 roll call for August 4, 2006 confirms that PO Zelikov and PO Ahmed were assigned to Sector A in vehicle # 1453.

### **Civilian Criminal Conviction History**

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

### **Police Officer CCRB History**

PO Zelikov and PO Ahmed do not have any previously substantiated allegations (encl. 2-2a).

### **Complainant CCRB History**

§ 87(2)(b) was the victim in two previous CCRB complaints made by her mother, § 87(2)(b) in § 87(2)(b) § 87(2)(b) filed a CCRB complaint regarding an incident that occurred in § 87(2)(b) § 87(2)(b) filed a CCRB complaint regarding an incident that occurred on § 87(2)(b) § 87(2)(b) has not filed any previous CCRB complaints (encl. 2b-2f).

## **Conclusions and Recommendations**

### **Identification of Subject Officers**

During their CCRB statements, PO Zelikov and PO Ahmed acknowledged the fact that they made a mutual decision to stop the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants. Furthermore, although PO Ahmed indicated that he did not assist PO Zelikov in the vehicle search, § 87(2)(b) alleged that both officers searched the vehicle. Furthermore, PO Ahmed did indicate that he retrieved the documents from the vehicle. § 87(2)(g)  
[REDACTED]

### **Undisputed Facts**

It is undisputed that PO Zelikov and PO Ahmed made a mutual decision to stop the vehicle in which the above four individuals were occupants. It is undisputed that § 87(2)(b) could not provide a license or valid paperwork pertaining to the vehicle and indicated that he borrowed the vehicle from his friend. It is undisputed that § 87(2)(b) was immediately placed under arrest for § 87(2)(b). It is undisputed that the vehicle was searched. It is undisputed that PO Zelikov and PO Ahmed retrieved paperwork from the vehicle, which alerted them to the fact that the vehicle was possibly stolen. It is undisputed that the owner of the vehicle arrived at the scene and confirmed that the vehicle was stolen.

### **Disputed Facts**

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]

### **Credibility Analysis**

§ 87(2)(g) § 87(2)(b) did admit to the fact that § 87(2)(b) was fidgeting with the headlights prior to the vehicle stop. In addition, her account of the incident is

generally consistent with PO Zelikov and PO Ahmed's account of the incident. However, § 87(2)(b) indicated that when she entered the vehicle, it did not appear as if anyone was intoxicated or under the influence of drugs, yet the IDTU paperwork confirmed the fact that § 87(2)(b) was visibly intoxicated and refused to provide a urine sample. § 87(2)(g)

§ 87(2)(b) the CCRB did not have the opportunity to obtain formal statements from § 87(2)(b) and § 87(2)(b) § 87(2)(g)

§ 87(2)(g) Both corroborated the fact that the black Chevy Suburban's headlights were not on at the time of the stop and that § 87(2)(b) was visibly intoxicated. § 87(2)(g) PO Zelikov indicated that the vehicle was driving slowly and PO Ahmed indicated that the vehicle was swerving lanes.

### **Allegations Not Pleaded**

Although § 87(2)(b) indicated that officers at the 123rd Precinct refused to give § 87(2)(b) medication, a refusal to obtain medical attention is not being pleaded because § 87(2)(b) never specifically requested medical attention. Furthermore, PO Spennato informed § 87(2)(b) that she could not give her daughter the medication while she was in police custody but indicated that § 87(2)(b) would be taken to the hospital if she required medical attention. In addition, § 87(2)(b) alleged that she was frisked and searched at the location. However, according to *Patrol Guide Procedure 208-05*, a frisk is performed to ensure the personal safety of the arresting officer and is conducted immediately after apprehension to find weapons, evidence or contraband (encl. 1). § 87(2)(g)

**Allegation A: Abuse of Authority: PO Vitoliy Zelikov stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.**

**Allegation B: Abuse of Authority: PO Aiman Ahmed stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.**

According to *Kamins Search and Seizure Guidelines*, there are two groups of Vehicle and Traffic Law violations that justify the stop of a vehicle. The first group consists of defects in a vehicle, such as a defective taillight or headlight and an inoperative taillight or headlight and the second consists of whether a motorist is driving too slowly or too fast (encl. 1a-1b). During the stop, the officer can request information from the driver that relates to the traffic infraction, including ownership of the vehicle. The officer can also ask the occupants their identities, their origin, their destination and the purpose of their trip (encl. 1c). In this case, PO Zelikov and PO Ahmed, by obtaining this information, discovered that the driver was intoxicated and ultimately became suspicious of the responses of the occupants. § 87(2)(g)

Furthermore, although § 87(2)(b) alleged that the headlights were on during the vehicle stop, she admitted to the fact that § 87(2)(b) was "fidgeting with the buttons." PO Zelikov and PO Ahmed indicated that upon stopping the vehicle there was no indication that it had been stolen or that the individuals were engaging in criminal activity. It was only until after the stop and conducting an investigation that the officers determined wrongdoing. § 87(2)(g)

**Allegation C: Abuse of Authority: PO Vitoliy Zelikov searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.**

**Allegation D: Abuse of Authority: PO Aiman Ahmed searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.**

After § 87(2)(b) was placed under arrest, PO Zelikov and PO Ahmed indicated that they each reached into the vehicle for documentation that was observed on the front passenger seat. It was their belief, that the documentation could establish the owner of the vehicle. According to Kamins, Search and Seizure Guidelines, under the appropriate circumstances, a police officer can conduct a limited search of a vehicle when there is a question about the ownership of the vehicle and the driver cannot satisfy the officer's questions (encl. 1d). § 87(2)(b) also alleged that PO Zelikov and PO Ahmed thoroughly searched the vehicle to "check for drugs and weapons." Moreover, § 87(2)(b) corroborated the officers in that § 87(2)(b) was placed under arrest prior to the vehicle search. PO Zelikov admitted to searching the entire vehicle but it was done incidental to § 87(2)(b)'s arrest for § 87(2)(b). PO Zelikov and PO Ahmed indicated that the search of the vehicle did not occur until after it was confirmed by the owner to be stolen.

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: